

Filed
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Aurora De La Garza
District Clerk
Cameron District

W. Little Prince

CAUSE NO. 2009-12-6671-D

RICHARD GOMEZ,
Plaintiff

vs.

UNIVERSITY OF TEXAS AT
BROWNSVILLE, TEXAS,
Defendant

IN THE DISTRICT COURT OF

CAMERON COUNTY, TEXAS

103RD JUDICIAL DISTRICT**DEFENDANT'S ORIGINAL ANSWER AND AFFIRMATIVE DEFENSES**

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now Defendant the University of Texas at Brownsville and files its Original Answer and Affirmative Defenses to Plaintiff's Original Petition:

GENERAL DENIAL

Pursuant to Rule 92, Texas Rules of Civil Procedure, and for the express purpose of requiring the Plaintiff to meet his burden of proof herein, Defendant denies each and every, all and singular, of Plaintiff's allegations, and demands strict proof thereof.

AFFIRMATIVE DEFENSES

1. Defendant asserts the affirmative defense of sovereign immunity to any and all claims against it to which that defense may apply.
2. Defendant is not the proper party to be sued for Plaintiff's First and Fourteenth Amendment claims.
3. Plaintiff failed to mitigate his damages.
4. Defendant asserts the affirmative defense of limitations for any claims outside the applicable limitations period.
5. Defendant reserves the right to add additional affirmative defenses at a later date if such defenses become known to Defendant.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant prays that:

1. Plaintiff takes nothing by his action; and
2. Defendant recovers all costs, including attorney's fees, and such other and further relief to which it is entitled.

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

C. ANDREW WEBER
First Assistant Attorney General

DAVID S. MORALES
Deputy Attorney General for Civil Litigation

ROBERT B. O'KEEFE
Chief, General Litigation Division

/s/ Allison V. Eberhart

ALLISON V. EBERHART
Texas Bar No. 24036515
ERIC L. VINSON
Texas Bar No. 24003115
Assistant Attorneys General
General Litigation Division
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548
(512) 463-2120
(512) 320-0667 FAX

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*Attorneys for the University of Texas at
Brownsville*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been sent by U.S. certified mail, return receipt requested on January 4, 2010 to:

Mr. Ruben R. Peña
700 Paredes Ave., Ste. 103
Brownsville, Texas 78521

/s/ Allison V. Eberhart
ALLISON V. EBERHART
Assistant Attorney General